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Attorneys for Plaintiff Mortgage Electronic Registration System, Inc. as nominee for GMAC Mortgage, LLC formerly known as GMAC Mortgage Corporation

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
(SAN FRANCISCO DIVISION)**

14 MORTGAGE ELECTRONIC) CASE NO. 3:07-cv-04290 - MEJ
15 REGISTRATION SYSTEM, INC. as)
16 nominee for GMAC Mortgage, LLC) PLAINTIFF'S CASE MANAGEMENT
17 formerly known as GMAC Mortgage) STATEMENT
18 Corporation,)
19 Plaintiff,) Date: November 29, 2007
20 vs.) Time: 10:00 a.m.
21 STACEY REINECCIUSS, ELAINE DIANE) Judge: Hon. Maria Elena James
22 STATHAKIS, EMPLOYMENT) Location: Courtroom B, 15th Floor
23 DEVELOPMENT DEPARTMENT -)
24 STATE OF CALIFORNIA,)
DEPARTMENT OF TREASURY -)
INTERNAL REVENUE SERVICE, and)
DOES 1 through 50, inclusive,)
Defendants.)

)

1 Plaintiff Mortgage Electronic Registration System, Inc. as nominee for GMAC
2 Mortgage, LLC formerly known as GMAC Mortgage Corporation submits the following case
3 management statement.

4 **DESCRIPTION OF CASE**

5 1. **A brief description of the events underlying the action:**

6 On or about March 31, 2006, plaintiff's predecessor loaned defendant Stacey
7 Reineccius \$1,273,000 secured by a first and second deed of trust against Reineccius' property
8 at 466 8th Street, San Francisco, California. Defendant IRS claims a federal tax lien against the
9 subject property in the amount of \$1,025,455 and defendant EDD claims a state tax lien
10 against the subject property in the amount of \$219,920, both of which predate plaintiff's deeds
11 of trust. Neither plaintiff nor its predecessor had knowledge of defendants' claimed liens at the
12 time the loans were made. Plaintiff is informed that defendant Reineccius disputes the validity
13 and amount of the IRS and EDD liens. However, it is undisputed that \$1,266,921 of the loan
14 proceeds from plaintiff's predecessor were used to pay off liens and other interests in the
15 subject property which predated the IRS and EDD liens. Thus, regardless of the priority of
16 plaintiff's deeds of trust vis-a-vie defendants' liens, plaintiff is entitled under the doctrine of
17 equitable subrogation to an equitable lien of \$1,266,921 plus interest senior in priority to
18 defendants' liens against the subject property.

19 2. **The principal factual issues which the parties dispute:**

20 The validity and amount of the IRS and EDD liens.

21 3. **The principal legal issues which the parties dispute:**

22 The validity of the IRS and EDD liens, and, if necessary, the applicability of the
23 doctrine of equitable subrogation and the amount and priority of plaintiff's equitable lien.

24 4. **The other factual issues (e.g. service of process, personal jurisdiction, subject
25 matter jurisdiction or venue) which remain unresolved for the reason stated
below and how the parties propose to resolve those issues:**

26 Plaintiff is not aware of any.

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5. The parties which have not been served and the reasons:

Plaintiff is not aware of any.

6. The additional parties which the below-specified parties intend to join and the intended time frame for such joinder:

Plaintiff is not aware of any.

7. The following parties consent to assignment of this case to a United States Magistrate Judge for (court or jury) trial:

Plaintiff does not consent to the assignment of this case to a United States Magistrate Judge for court or jury trial.

ALTERNATIVE DISPUTE RESOLUTION

8. Please indicate the appropriate responses:

The parties have not filed a Stipulation and Proposed Order selecting an ADR Process.

9. Please indicate any other information regarding ADR process or deadline:

Plaintiff requests early mediation.

DISCLOSURES

10. The parties certify that they have made the following disclosures (list disclosures of persons, documents, damage computations and insurance agreements):

Plaintiff has made its initial disclosures. Defendants have failed to make any initial disclosures. Plaintiff requests an order requiring defendants to make their initial disclosures.

DISCOVERY

11. The parties agree to the following discovery plan (Describe the plan, e.g., any limitation on the number, duration or subject matter for various kinds of discovery; discovery from experts; deadlines for completing discovery):

a. Parties

Plaintiff is unable to propose a discovery plan until receipt of defendants' initial disclosures.

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TRIAL SCHEDULE

12. The parties request a trial date as follows:

Plaintiff was unable to confer with all parties regarding a trial date but will attempt to do so prior to the case management conference.

13. The parties expect that the trial will last for the following number of days:

2 - 3 days.

Dated: November 27, 2007

STEYER LOWENTHAL BOODROOKAS
ALVAREZ & SMITH LLP

By: /s/ Edward Egan Smith

Jeffrey H. Lowenthal

Edward Egan Smith

Attorneys for Plaintiff Mortgage

Electronic Registration System, Inc. as

nominee for GMAC Mortgage, LLC

formerly known as GMAC Mortgage